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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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JONATHAN TIEN and DAVID R. MARBLE  
Junior Party  
(Patent 5,687,722)<sup>1</sup>

v.

MOHAMED K. DIAB, ESMAIEL KIANI-AZRBAY JANY,  
IBRAHIM M. ELFADEL, REX J. McCARTHY,  
WALTER M. WEBER and ROBERT A. SMITH  
Senior Party  
(Application 09/195,791)<sup>2</sup>

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Patent Interference No. 105,478

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Before LEE, LANE and MOORE, Administrative Patent Judge.

LEE, Administrative Patent Judge.

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**Judgment -- Request for Adverse -- Bd. R. 127(b)**

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<sup>1</sup> Based on Application 08/507,754, filed July 26, 1995. Accorded the benefit of Application 08/442,834, filed May 17, 1995. The real party in interest is SpaceLabs Medical Inc., SpaceLabs Healthcare, Inc. and OSI Systems, Inc.

<sup>2</sup> Filed November 17, 1998. Accorded the benefit of Application 08/859,837, filed May 16, 1997; Application 08/320,154, filed October 7, 1994; and Application 08/132,812, filed October 6, 1993. The real party in interest is Masimo Corporation and Comerica Bank-California.

Interference No. 105,478  
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1           On October 31, 2006, junior party conceded priority and requested entry of adverse  
2 judgment with respect to the subject matter of Count 1. (Paper No. 31) In a telephone  
3 conference call held on November 14, 2006, counsel for party Tien indicated that Tien is no  
4 longer interested in filing a motion for no interference-in-fact and a motion to designate its  
5 claims 1-10, 12, 13, 15 and 18-28 as not corresponding to the count. The request is granted.

6           It is

7           **ORDERED** that judgment on priority as to the subject matter of Count 1 is herein  
8 entered against junior party JONATHAN TIEN;

9           **FURTHER ORDERED** that junior party JONATHAN TIEN is not entitled to claims  
10 1-28 of its involved Patent No. 5,687,722;

11           **FURTHER ORDERED** that if there is a settlement agreement, the parties should note  
12 the requirements of 35 U.S.C. § 135(c) and Bd. Rule 205; and

13           **FURTHER ORDERED** that a copy of this judgment be placed in the respective  
14 involved application or patent of the parties.

/ss/ Jameson Lee  
JAMESON LEE  
Administrative Patent Judge

/ss/ Sally G. Lane  
SALLY G. LANE  
Administrative Patent Judge

/ss/ James T. Moore  
JAMES T. MOORE  
Administrative Patent Judge

Interference No. 105,478  
Tien v. Diab

By Electronic Transmission:

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